

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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ROBERT I. REED,

Plaintiff,

v.

9:05-CV-1496  
(TJM)(DRH)

OFFICER MAHUNIC, Correction Officer,

Defendant.  
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APPEARANCES:

OF COUNSEL:

ROBERT REED  
Plaintiff, *pro se*  
93-B-1119

HON. ANDREW M. CUOMO  
Office of the Attorney General  
State of New York  
Department of Law  
The Capitol  
Albany, New York 12224

RISA L. VIGLUCCI, ESQ.

DAVID R. HOMER, U.S. MAGISTRATE JUDGE

**DECISION and ORDER**

The Clerk has sent to the Court a Motion to Compel discovery filed by Robert Reed ("Plaintiff" or "Reed"), who is currently incarcerated at Altona Correctional Facility.

By way of background, this action was filed on November 30, 2005. The Defendant served his Answer on April 17, 2006. Docket No. 7. A Pretrial Scheduling Order was issued on June 12, 2006. Docket No. 9. Thereafter, on December 19, 2006 this Court granted Plaintiff leave to amend his Complaint. Docket No. 17. The amended Complaint was filed on December 26, 2006 (Docket No. 18), and the Defendant answered the Complaint on January 8, 2007. Docket No. 19.

Plaintiff filed this Motion to Compel on January 8, 2007. Docket No. 20. The

Defendant filed his opposition to the Motion on January 19, 2007. Docket No. 21.

At issue are Interrogatories dated May 1, 2006 and Demand for Documents dated July 6, 2006.<sup>1</sup>

In his response, Defendant provides the Court with his responses to the demands, and also provides the Court with correspondence between the parties relevant to the demands. Docket No. 21, Exhibits 7, 8, and 9. In that correspondence, Plaintiff does not address the objections raised by the Defendant in his responses to the discovery demands or, in any other way, attempt to confer on the demands where the parties apparently differ. Plaintiff does acknowledge that he has reviewed a number of documents, and requested copies of specific documents. However, Plaintiff does not address the substance of any of the demands that the Defendant objected to or did not answer.

Plaintiff has not submitted documentation which indicates that he made any good faith efforts to resolve the instant discovery dispute prior to filing his motion to compel as is required Local Rule 7.1(d). The Pretrial Order issued by this Court specifically advised the Plaintiff of this Rule, and cautioned Reed that any Motion to Compel filed in this action that was not accompanied by documentation that substantiated his efforts to resolve any discovery disputes prior to the filing of such

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<sup>1</sup>Plaintiff did not comply with Local Rule Rule 26.2 , which provides in relevant part that "Any motion pursuant to Fed.R.Civ.P. 37 shall be accompanied by the discovery materials to which the motion relates if those materials have not previously been filed with the Court." Plaintiff filed his original demands, but not the Defendant's responses that he purportedly takes issue with.

Motion will be denied for failure to comply with the Local rules. See Dkt. No. 9.

In light of the above, Plaintiff's Motion to Compel is denied without prejudice. Any renewed Motion to compel filed by Reed must comply with the Local Rules, including Local Rule 7.1(d), a copy of which is attached to this Order for Plaintiff's review.

WHEREFORE, it is hereby


ORDERED, that Reed's Motion to Compel (Docket No. 20) is denied without prejudice to renew at some future time. Any future Motion to Compel must comply with all of the provisions of the Local Rules, including Local Rule 7.1(d), and it is further

ORDERED, that the discovery deadline is re-set to **June 11, 2007**, the motion to compel deadline is re-set to **July 11, 2007**, and the dispositive motion filing deadline is re-set to **October 12, 2007**, and it is further

ORDERED, that the Clerk serve a copy of this Order on the parties, and a copy of Local Rule 7.1 on the Plaintiff, in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: March 12, 2007

  
United States Magistrate Judge